

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BILLY D. DAVIS,

Defendant.

)
)
)
)
)
)
)
)
)

CASE NO. 8:04CR199

**MEMORANDUM
AND ORDER**

This matter is before the Court on the Defendant's notice of appeal (Filing No. 224) and the Clerk's memorandum regarding in forma pauperis status (Filing No. 225).

On November 30, 2005, the Defendant, Billy D. Davis, was sentenced to 360 months imprisonment. The Eighth Circuit affirmed his conviction and sentence and denied his petition for rehearing and rehearing en banc. The United States Supreme Court denied Davis's petition for a writ of certiorari.

In 2008, his sentence was reduced to 324 months pursuant to the changes in the crack cocaine sentencing guidelines. Davis appealed from the order reducing his sentence, and the Eighth Circuit affirmed this Court's order. Davis's three motions filed under 28 U.S.C. § 2255 were denied. This Court and the Eighth Circuit denied Davis's request for a certificate of appealability, and the Eighth Circuit denied Davis's petition for rehearing and rehearing en banc. The Supreme Court denied Davis petition for a writ of certiorari.

This Court denied Davis's motion to dismiss his case, and while on appeal Davis voluntarily dismissed the appeal. The Court denied Davis's motion to resubmit his motion to dismiss, and the Eighth Circuit summarily affirmed this Court's order.

Davis's motion under Federal Rule of Civil Procedure 60(b) was denied, and the Court denied his motion for a certificate of appealability and motion to reconsider. The

Eighth Circuit denied Davis's request for a certificate of appealability. The Supreme Court denied certiorari.

Davis filed a motion under Federal Rules of Civil Procedure 57 and 60(b) that was denied, and the Court also denied Davis's objection to the order and motion for the Judge and her law clerks to recuse themselves from his case. Davis appealed from that order, and the Court's judgment was summarily affirmed on appeal.

Davis then filed a Motion Pursuant to Fed. R. Crim. P. 52(b) (Filing No. 222) asserting "plain error." This Court denied the Motion at Filing No. 223, and Davis appeals once again.

Davis's case has concluded. He has no further relief. The matters raised are "frivolous" within the meaning of 28 U.S.C. § 1915(e)(2)(B)(i), and therefore the Defendant is denied leave to proceed in forma pauperis on appeal.

IT IS ORDERED:

1. The Defendant is denied leave to proceed in forma pauperis on appeal; and
2. The Clerk is directed to mail a copy of this order to the Defendant at his last known address.

DATED this 13th day of June, 2013.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge